

REMARKS

In the Office Action dated November 29, 2004, prosecution on the merits was again (for the second time) reopened. Despite the fact that this application has been pending since September 13, 1999, and has twice been taken to a final rejection, and has twice been appealed, prior art not previously cited is still being located and applied and against the application. The references now relied upon by the Examiner are in the same classifications as the references relied upon in previous rejections, and there does not appear to be any reason why they could not have been located and cited earlier. This has resulted in unjustifiable prosecution delays and expenses on the part of the Applicants. Applicants have twice tried to bring this application to a conclusion by filing an appeal. Applicants believe the references now relied upon by the Examiner are no more relevant than the references relied upon during earlier prosecution, however, in order to advance prosecution independent claims 1 and 11 have been amended as discussed below. If the Examiner determines it is justifiable to maintain the present rejection, the Examiner is respectfully requested to be absolutely sure that the Examiner would be comfortable in maintaining that rejection before the review panel in the Examiner's Group as well as before the Board of Patent Appeals and Interferences, so that a third reopening of prosecution, if matters proceed that far, is avoided.

The method and apparatus disclosed and claimed in the present application are for use in the context of loading data into a service device from a data center that is located remote from the service device, and is in communication with the service device. In particular, the method and apparatus are suitable for loading data such as postage rate tables from a data center maintained by the USPS, or by an entity

authorized by the USPS, into a postage meter. The method and apparatus ensure that when the data are downloaded (transmitted) from the data center to the service device, they will be loaded into and stored in the service device at a memory location that does not impair or impede the operation of the service device. This ensures that the downloaded data will not be loaded into and stored in the service device “blindly” at an arbitrary memory location that might prove to be problematical in the day-to-day operation of the service device.

For this purpose, in the method and apparatus set forth in claims 1 and 11, the service device generates a status report that identifies memory location occupancy by the service data in a memory of the service device. Claims 1 and 11 as originally filed referred to “memory occupancy,” but this term has now been amended to “memory location occupancy” to make clear that the status report is not simply concerned with memory contents, but identifies *where* in the memory of the service device the service data are stored.

This status report is transmitted from the service device to the data center and is evaluated at the data center. Based on this evaluation, prior to transmitting new service data to the service device, the data center formulates recommendations for the future status of the memory location occupancy in the service device. These recommendations respectively designate different possible storage locations for the new service data. This recommendation is then transmitted to the service device, and the service device then checks the recommendations made by the data center for feasibility as to memory location occupancy in the memory of the service device. For example, the data center may have made a recommendation to store new service data at a memory location in the service device that is already occupied, or

substantially occupied, and therefore that recommendation would not be considered as feasible by the service device.

When the new service data are transferred from the data center to the service device, the new service data are stored at a memory location in the service device according to one of the recommendations that has been checked in the service device and determined to be feasible.

As noted above, this avoids the situation of trying to “force” new service data to be loaded at a memory location in the service device that would impede or impair the normal operation of the service device. The service device is thus “prepared” to receive and store the new service data at a memory location that has been determined by the service device itself to be feasible, based on one of the recommendations from the data center. This avoids either the data center or the service device from trying to “force” the new service data into storage in an inappropriate memory location, such as a memory location that is already occupied or substantially occupied. Trying to “force” storage of the new service data at an inappropriate memory location might result in the new service data not being accepted at all, or might result in previously-stored data in the service device being undesirably overwritten, or might require the service device to temporarily halt its normal operation in order to reorganize its memory occupancy in order to accommodate the new service data. All of these potential problems that would impede or impair the normal operation of the service device are avoided in accordance with the invention, by preparing the service device to receive the new service data in the manner described above.

This problem is nowhere addressed in any of the references relied upon by the Examiner, and therefore none of those references discloses or suggests a solution to that problem.

Claims 1, 2, 3, 7, 10, 11, 12, 13, 17 and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sansone et al. in view of Abumehdi et al. This rejection is respectfully traversed for the following reasons.

The Sansone et al. reference discloses a postage data communication network having a central data station (data center) in communication with a number of user stations (service devices). At page 3 of the Office Action, the Examiner stated the Sansone et al. reference teaches the transmission of a status report from a service device to the data center, citing language at column 9, lines 8-15 of the Sansone et al. reference. In contending that this passage in the Sansone et al. reference corresponds to the language of independent claims 1 and 11, the Examiner has completely (and unjustifiably) ignored the language in original claims 1 and 10 stating that the status report is “a status report of memory occupancy by said service data in said memory.” As noted above, “memory occupancy” has now been changed to “memory location occupancy” in the claim language. The language in the Sansone et al. reference cited by the Examiner has nothing to do with a status report regarding memory occupancy, much less memory location occupancy. The passage in the Sansone et al. reference cited by the Examiner merely refers to the standard, conventional service request that is always initiated by a postage meter when service of any type is desired from the data center by the user of the postage meter. There is nothing in the Sansone et al. reference, in this passage or

elsewhere, that makes any mention or suggestion of a status report as to memory occupancy or memory location occupancy.

The Examiner also characterized the Sansone et al. reference as teaching that the data center forms a recommendation based on the status report regarding the service device memory. Again, the Examiner has completely ignored the language in original claims 1 and 11 stating that the recommendation is “for a future status of said memory occupancy in said service device.” Since the status report generated by the service device in Sansone et al. has nothing to do with memory occupancy or memory location occupancy, the “recommendation” (whatever it is) that is generated at the data center in the Sansone et al. reference similarly has nothing to do with memory location occupancy.

Therefore, Applicants do not agree that the Sansone et al. reference provides the basic teachings ascribed to it by the Examiner.

The Examiner acknowledged that the Sansone et al. reference does not specifically recite checking the recommendation for feasibility at the service device, but the Examiner relied on Abumehdi et al. as teaching a service device that checks a service data recommendation for feasibility prior to loading the service data recommendation from a memory. The Abumehdi et al. reference, however, does not deal with communications between a service device and a remote data center, but is directed to an arrangement for *avoiding* the use of a data center, by storing service data in a service module, which is then temporarily physically connected to the service device in order to download the service data into the service device.

Moreover, the Examiner has again ignored the explicit language in claims 1 and 11, because each of those claims requires that the data center form

recommendations (plural) and that those recommendations (plural) be checked by the service device. Since the module disclosed in Abumehdi et al. is not a data center, it does not have the capability of formulating multiple recommendations, but only makes the service data stored therein available to the service device. Apparently, the Examiner considers the authenticity check of the service data that is undertaken by the service device in Abumehdi et al. as a “feasibility” check. Applicants submit that this interpretation is not consistent with the normal dictionary meaning of “feasibility,” but nevertheless independent claims 1 and 11 have been amended to make clear that the check for feasibility is for feasibility as to memory location occupancy in the memory of the service device. There is no teaching or suggestion anywhere in the Abumehdi et al. reference to undertake any feasibility check for that purpose.

Moreover, in the Abumehdi et al. reference (and in the Sansone et al. reference as well), there is no discussion of the possibility of downloading data into the service device at different memory locations, and therefore there is no need in either of those references to undertake a preliminary determination as to which of those memory locations might be best suited to receive and store the downloaded data. In the Sansone et al. and Abumehdi et al. references, it is assumed that if and when data transfer takes place, the data will always be stored at a particular memory location in the service device. Neither of those references gives any thought as to how that memory location should be determined, much less providing any teaching involving flexibility in selecting that memory location according to various feasibility recommendations.

Therefore, even if the Sansone et al. network were modified in accordance with the teachings of Abumehdi et al., neither a method nor an apparatus as set forth in claims 1 and 11 would result. Claims 1 and 11, therefore would not have been obvious to a person of ordinary skill in the field of designing data transfer systems involving data transfer from a first location from a second location that is remote from the first location.

Claims 2, 3, 7 and 10 add further steps to the non-obvious method of claim 1, and claims 12, 13, 17 and 20 add further structure to the non-obvious combination of claim 11. Those claims would not have been obvious to a person of ordinary skill in the aforementioned technology, based on the teachings of Sansone et al. and Abumehdi et al., for the same reasons discussed above in connection with claims 1 and 11.

Claims 8, 9, 18 and 19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Sansone et al. and Abumehdi et al., further in view of Freestone et al. This rejection also is respectfully traversed.

Claims 8 and 9 depend from claim 1, and therefore embody the subject matter of claim 1 therein, claims 18 and 19 depend from claim 11, and therefore embody the subject matter of claim 11 therein. In view of the above arguments regarding Sansone et al. and Abumehdi et al. with respect to claims 1 and 11, Applicants submit that even if the Sansone et al./ Abumehdi et al. combination were further modified in accordance with the teachings of Freestone et al., the subject matter of claims 8, 9, 18 and 19 still would not result.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Submitted by,

Steven H. Noll

(Reg. 28,982)

SCHIFF, HARDIN LLP
CUSTOMER NO. 26574
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
Telephone: 312/258-5790
Attorneys for Applicants.

CH1\ 4229798.1